

CONSUMER CREDIT BUREAU NOTICE

REQUIREMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Karen W. Morgan

LONG TITLE

General Description:

This bill requires a credit reporting agency to notify a consumer, who has requested notice, when the credit reporting agency furnishes the consumer's credit report to a person or other entity.

Highlighted Provisions:

This bill:

- defines terms;
- requires a credit reporting agency to notify a consumer, who has requested notice, when the credit reporting agency furnishes the consumer's credit report to a person;
- and
- provides for a lawsuit by a consumer who incurs actual damages because of a credit reporting agency's failure to send a required notice.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-41-101, Utah Code Annotated 1953

13-41-102, Utah Code Annotated 1953



13-41-103, Utah Code Annotated 1953

13-41-201, Utah Code Annotated 1953

13-41-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-41-101 is enacted to read:

CHAPTER 41. CONSUMER CREDIT REPORTING ACT

Part 1. General Provisions

13-41-101. Title.

This chapter is known as the "Consumer Credit Reporting Act."

Section 2. Section 13-41-102 is enacted to read:

13-41-102. Definitions.

As used in this chapter:

(1) "Consumer" means a natural person residing in this state.

(2) "Credit report" means a consumer report as defined in 15 U.S.C. Sec. 1681a.

(3) "Credit reporting agency" means a person that, for a monetary fee, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information about a consumer for the purpose of furnishing a credit report to a third person.

(4) "Notice" means the notice required by Subsection 13-41-201(1).

Section 3. Section 13-41-103 is enacted to read:

13-41-103. Division of consumer protection -- Public information.

The Division of Consumer Protection shall inform the public about the notice allowed by Section 13-41-201 using monies from the Consumer Protection Education and Training Fund created by Section 13-2-8.

Section 4. Section 13-41-201 is enacted to read:

Part 2. Notice of Reports

13-41-201. Credit report -- Notice or reporting.

(1) Within five business days of the day on which a credit reporting agency furnishes a credit report, other than a credit report furnished under 15 U.S.C. Sec. 1681b(c), the credit reporting agency shall notify the consumer, if notice is requested by the consumer:

59 (a) that the credit reporting agency furnished the consumer's credit report;
60 (b) of the name of the person who requested the consumer's credit report from the
61 credit reporting agency; and
62 (c) of the date on which the credit report was furnished.

63 (2) The notice required by Subsection (1) shall be provided in one of the following
64 manners requested by the consumer:

65 (a) notice by electronic mail; or
66 (b) notice sent by first-class mail.
67 (3) A consumer requesting notice under Subsection (1):
68 (a) shall specify whether notice is to be by:
69 (i) electronic mail; or
70 (ii) first-class mail;
71 (b) shall specify the electronic mail or mailing address to which notice is to be sent;
72 and

73 (c) is responsible for notifying a credit reporting agency of any change in the
74 consumer's electronic mail or mailing address.

75 (4) A credit reporting agency that sends the notice required by this section to an
76 electronic mail or mailing address provided to the credit reporting agency is not liable under
77 Section 13-41-202 if the notice is not actually received by the consumer.

78 Section 5. Section **13-41-202** is enacted to read:

79 **13-41-202. Action by consumer.**

80 (1) A consumer who has requested notification under Section 13-41-201 may bring a
81 civil action in a court of competent jurisdiction against a credit reporting agency that fails to
82 provide notice under Section 13-41-201 if the credit reporting agency's failure to provide notice
83 caused actual damage to the consumer.

84 (2) In an action brought under Subsection (1), a consumer may recover:

85 (a) the greater of:
86 (i) actual damages; or
87 (ii) \$1,000;
88 (b) reasonable attorney fees; and
89 (c) court costs.

Legislative Review Note
as of 1-26-05 12:18 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0100

Consumer Credit Bureau Notice Requirements*01-Feb-05**12:11 PM*

State Impact

The public information campaign required by the provisions of the bill will cost an estimated \$25,000 from the Consumer Protection Education and Training Fund.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
Restricted Funds	\$25,000	\$25,000	\$0	\$0
TOTAL	\$25,000	\$25,000	\$0	\$0

Individual and Business Impact

No fiscal impact on consumers. Cost to credit bureaus will be the notification costs involved in a letter and first class postage or e-mail for customers requesting notice.

Office of the Legislative Fiscal Analyst